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ABSTRACT

A study was conducted which examined records from the Ontario Court of Appeal to investigate the factors contributing to child molestation by teachers in the classroom. Data were analyzed using Finkelhor's model of emotional congruence. For the offenders against prepubescent children, the chain of causation was found to lead outside the classroom. The data revealed that six out of seven offenders had serious difficulties with peer intimacies outside the classroom. Pronounced contrasts between the offenders' poor peer relationships outside the classroom and their successful teacher-pupil relationships inside the classroom were identified as important precursors of child molestation. This document presents the results of the study, reviews problems obtaining reliable data, and summarizes laws regarding sexual offenses. Profiles are provided of offenders against male and female children. Nine pages of selected references are included. Discussions of ethical issues are appended. (Author/NB)

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CHILD MOLESTORS IN THE CLASSROOM

by

A. J. Welch

A project submitted to the

Faculty of Education

in partial fulfillment of the requirements

for the degree of Master of Education

CG 020821

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"A sexual experience, like rock climbing, builds character in the young."

Quote from the presentence report. Regina vs R. (1986). In Goldberg, K. (1986, p. B.6)

Abstract

Using records culled from the Ontario Court of Appeal as a primary resource the paper examines the factors contributing to child molesting by teachers in the classroom. Problems obtaining reliable data are reviewed and the laws with respect to sexual offences summarized. The data is examined using Finkelhor's model of emotional congruence. For the offenders against prepubescent children the chain of causation leads outside the classroom. The data revealed that six out of seven offenders had serious difficulties with peer intimacies outside the classroom. Pronounced contrasts between the offenders' poor peer relationships outside the classroom and their successful teacher-pupil relationships inside the classroom are identified as an important precursor of the behavior. Insufficient data was available for other categories of classroom offenders.

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Chapter 1

Preamble

In February of 1978 Denise Nouvelle, a nurse therapist with the University of British Columbia's psychotherapy program for sex offenders, took a group of her patients on an outing to the University pool. On the way to the pool they passed an old man sitting on a park bench: "he was dressed in a dirty, ragged raincoat, appeared debilitated and had the vacant stare of someone who was mentally ill" (Margoshes, 1986, p. H. 10). As they passed the old man, one of the group, undergoing treatment for child molesting at the time, pointed to the old man and quipped: "Look there's Chester the Molester" (Margoshes, 1986, p. H 10).

Eight years later the incident was recalled for Supreme Court Justice Raymond Paris at a hearing to determine whether the author of the above remark should be declared a dangerous sexual offender (Regina

vs N., 1986). The defendant, Robert N.,[1] teacher, principal and child molester stood before the court convicted of nineteen counts of sexually abusing his pupils in five schools over a fifteen year period.

In the context of the study that follows the incident described above provides several useful insights into the problems of sexual abuse of children in general and sexual abuse of children by teachers in particular.

Public prosecutions of child molestors are often sordid and sensational. The resulting media converage may promote, in the public mythology, a residual image of such an offender as the proverbial "dirty old man" instantly recognized and labelled by Robert N. on his walk to the pool. Related stereotypes also influence public perceptions. Perpetrators of indecent exposure, for example, are often depicted as devious types wearing wide brimmed fedoras and long trench coats concealing pant legs that hang only from the knee to

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1. The method of delineating the evidence for my argument is a sensitive issue. A fuller explanation of the arguments for the method of reporting adopted may be found in Appendix A.

the ankle. Similarly, rapists may often be visualized as filthy, unkempt and crude brutes. In the same way, Robert N., during his walk through the park, spontaneously labelled the seedy stranger on the park bench as his stereotypical child molestor.

Programs intended to prevent child abuse may be misdirected by stereotypes. The "Block Parent" program is a prime example. The fundamental premise of the program is that strangers are the greatest threat to children (Dunphy, 1987, p. D 11). The implication is that child molesting is most often done by sinister strangers. A recent study of parents' perceptions of child sexual abusers confirmed this view: "When asked to think of a sexual abuser a majority of parents still thought in terms of an offender who was a stranger" (Finkelhor, 1984, p. 90). Yet as was pointed out in a study by the federal government:

> Most of the convicted child sexual offenders had known their victims prior to committing the offence. Overall, only one in four offenders (26.9%) was a stranger. In contrast, only one in seven offenders (14.3%) having two or more victims was a stranger. (Sexual Offences, 1984, p. 851)

These public misconceptions of the problem are reflected in the above remarks of Robert N.. Like many child molestors he clearly did not see himself, or his behavior, as fitting that particular stereotypical role, but he could clearly see others who did. The literature on child abuse adopts a similar theme, particularly with respect to teachers.

There are numerous journal articles on sexual abuse in the educational literature. Roscoe (1984) describes educators as "a first line of defence for children" (p. 82). Similarly Harrison (1986) suggests that the role of the teacher is to "develop a sexual abuse education program" (p. 72). Other educators such as Rozenzweig (1984) and Koblinsky & Behana (1984) focus on detecting sexually abused children in the classroom.

The common theme of these publications is the role of the teacher in the identification of child sexual abuse. U this emphasis is the notion that child sexual abuse is not committed by educated professionals. Teachers and other professionals have, in the past, been perceived as primarily as problem solvers: "We look to professionals for the definition and solution of our problems" (Schon, 1983, p. 3-4). Accordingly, until very recently, teachers have only

been seen as part of the solution, not part of the problem. This is a misconception that teachers such as Robert N. may use to rationalize, conceal and perpetuate the sexual abuse of children entrusted to their care by parents.

There is increasing public and professional interest in the problems posed by sexual abuse in the classroom. Yet defining the true extent of the problem remains an elusive ideal (Zarzour, 1987). Thus the case of Robert N. provides only a thoroughly documented example of the way the problem evolved in one particular classroom. It is presented as an illustration of an educational enigma in need of extensive critical examination. What follows is a preliminary attempt to bring some of the problems that underly the sexual abuse of children by teachers into focus for further examination and discussion.

Chapter 2

Introduction

2.1 Overview of the problem.

The dynamics of teacher pupil interaction have long been the focus of curriculum theorists. It is also a well established proposition that the social climate resulting from teacher-student interaction is a significant variable affecting the learning process. Flanders (1967) defined classroom climate in terms of "those qualities that consistently predominate in most teacher-pupil contacts and contacts between pupils in the presence of the teacher" (p. 103).

Brophy & Good (1974) in a study of the effects of teacher attitudes and teacher expectations found that both variables exerted a significant influence over patterns of teacher-student interaction:

> Once the teacher forms differential attitudes the students may begin to respond differentially and in ways that will tend to complement and reinforce

> the teacher's attitudes. In some cases the results should be an increase in achievement and school satisfaction for some students and a decrease in achievement and school satisfaction for others. Thus attitudes, like expectations, have the potential for affecting students and for functioning as self fulfilling prophecies. (p. 131)

In presenting their data Brophy & Good (1974) found no predictable patterns independent of the personality of the individual teacher. They concluded only that the pattern of attitudes and expectations constituting the classroom climate were significant variables affecting learning outcomes for students.

In any given classroom the curriculum has both explicit and implicit components: the visible curriculum and the invisible curriculum. This paper focusses on what may be a meticulously hidden aspect of teacher-pupil interaction experienced by children in schools across Canada: the abuse inflicted by teachers who sexually molest their students in the classroom. The emphasis on the tentative existence and extent of the problem is intended and deliberate. Defining, rather than assuming, the nature, scope and shape of the problem is the principal task of this study.

Are teachers convicted of sexually assaulting their students child molestors or victims of other circumstances? As a preliminary study no definitive answers are anticipated or expected. The problem statement is aimed solely at clarifying the shape of the problem, not developing or assuming a definitive explanation of sexual abuse in the classroom. In the absence of research in this area definition and revelation of the context of the problem is an important objective of the paper.

All too often "guesstimates" of the extent of sexual abuse become accepted over time as fact. For example, one thousand rapes are reported in a given area. An "expert" estimates that only one in ten rapes is reported. Then the leap in logic and the figure cited for the extent of the problem will be one thousand multiplied by ten, ten thousand. Dealing only with the known aspects of the problem rather than the suspected or "guesstimated" dimensions is essential to the credibility of the study. No assumptions are made about the behavior of teachers not found guilty in a court of law.

Some teachers may molest children in their classes and avoid detection or prosecution. Others resign in

response to the allegations and are never prosecuted. Many may be merely warned and returned to the classroom. Accepting innuendo or allegations as significant dimensions of the practice of child molestation in the classroom can only lead to indefensible and misleading outcomes. Sound and logical conclusions must be supported by the best possible evidence. In this case the best possible evidence is found in the court records of teachers prosecuted and convicted of sexually molesting their students. These records are the most comprehensive and accessible and will constitute the primary source of data for the study. Formal court records will, however, be supplemented by a secondary resource: cases derived from a cross-Canada database search of Canadian periodicals.

2.2 Structure of the study.

The paper will examine data derived from court records with a view to defining the context of the offences. Using Finkelhor's (1984) concept of emotional congruence the analysis will then focus on identifying what emotional needs the relationships with the children met for the offenders. These needs will

be discussed in terms of their fit with theoretical explanations of adult sexual interest in children. The first objective will be to ascertain whether current explanations of child molesting can account for the behavior. The second objective will be to identify circumstances that may be unique to the etiology of these problems in the context of the classroom.

While court data may be the best possible evidence, it is not free from hidden influences. The significance of these influences must be understood before accurate inferences can be made about the shape of the problem. The section of the paper discussing limitations of the data is intended to clarify some of the latent problems involved in using court records as a data base. The subsequent analyses and conclusions of the study should be read in the context of these limitations.

Limiting the study to convicted teachers has the potential to clutter as well as clarify the analysis. This distinction can only be meaningful if the types of behaviors and activities that bring an offending teacher before the courts are elaborated for the reader. The legal summary preceding discussion of the data is intended as both informative and definitive.

It illustrates the laws applicable to those who sexually molest children and it also implicitly defines the behaviors addressed by the study.

For the purposes of this paper the problem of sexual abuse in the classroom has two important contextual components: the courtroom, and the school. The section that follows defines the shape of the problem in terms of the classroom relationships between teacher and pupil. In the sense that the problem emerges from this relationship sexual abuse in the classroom is viewed as a curriculum issue.

Chapter 3

Abuse and Curriculum

3.1 A curriculum issue?

Is sexual abuse in the classroom a curriculum issue? If the concept of curriculum is confined to course content sexual abuse may not be considered a curriculum issue. The approach adopted in this paper, however, is to define curriculum as more than a "set of intended learnings" (Goodlad, 1979, p. 21).

Curriculum entails more than merely teachers' intentions generating a flow of knowledge from teacher to student (Barnes, 1976, p. 18). Interaction in the classroom is not unidirectional from teacher to student and children are not passive recipients of a social experience dispensed in the classroom: "The self is not merely a product of the environment in a passive sense, but results from the interpretations a child makes of how others perceive, judge and evaluate him" (Downey, 1977, p. 57).

Curricular concerns here are defined in terms of the relationships and attitudes that develop between teachers and pupils during the classroom experience: "To become meaningful a curriculum has to be enacted by pupils as well as teachers..." (Barnes, 1976, p. 14). The relationships are human and the emotional outcomes as important as the intellectual.

When asked about the sexual abuse inflicted by his teacher, for example, a nine year old boy told the police: "Mr C. was like the boss and I listened to the boss. When my mom isn't around he is the boss" (Baldrey & Warner, 1986, A 11). The child's comments reveal the relationship he perceived he had with his teacher. He saw the teacher as an authoritarian to be feared and obeyed. He saw himself as subservient and he obeyed. His perceived classroom status facilitated unquestioning obedience to the demands of a deviant teacher.

This is not to suggest that an authoritarian teacher-student relationship is an essential precursor of sexual abuse in the classroom. The implication is only that the relationship between teacher and students influences the way the problem emerges in the classroom and how students respond to the abuse.

Contrast, for example, the child's comments above (Baldrey & Warner, 1986) with the case of Regina vs I. (1981). This particular teacher was considered gentle and sincere by his pupils. Yet in the process of displaying affection for his students he sexually abused them. Here the Grade 4 students were not intimidated by the teacher and confronted him with the problem:

> A confrontation occurred in the last week of February 1981 when several of his students sent him a letter requesting he stop hugging them and touching their personal parts. The students requested they all discuss these issues in the classroom. Mr T. attempted this but when he tried to apologize to the boys he broke down and cried. (Regina vs I., 1981, Psychiatric Report, p. 23)

The two examples are strikingly different in terms of both the teacher-student relationships and the students' responses to the problem behaviors. Neither is presented as conclusive evidence that the teacher's classroom philosophy or personality is the only, or necessarily the most significant, catalyst at work in the classroom. In their study of classroom interaction Brophy & Good (1974) concluded that the outcomes of

teacher-pupil classroom relationships can neither be predicted nor generalized with reasonable accuracy:

> The degree to which teacher attitudes affect teacher-student interaction, and the particular ways that they do affect it when such affects are observed, will differ from teacher to teacher.... It is unlikely that particular student attributes have simple and universal effects in triggering specific teacher attitudes. (p. 149)

Often students' attitudes and behavior are discussed as outcomes of the hidden or implicit curriculum practised by the teacher (Snyder, 1971). Looking at the behavior in this way, however, has the potential to be misleading. Not all curriculum outcomes are a consequence of the influence of the teacher (Barnes, 1976, p. 17). Influence can also flow in the other direction, from student to teacher: "Teacher-student interaction is a two way process, and often the student conditions teacher behavior as much or more than the teacher conditions student behavior" (Brophy & Good, 1974, p. 12).

In a study of teacher and student attitudes in the classroom Yee (1968) found a significant relationship between teacher perceptions of students and the

development of student attitudes towards the teacher. In citing and summarizing Yee's study Brophy & Good (1974) concluded that: "Drop in student attitude was also related to teacher attitude in that the teachers who had the most negative and intolerant attitudes towards students were those teachers about whom students become most negative as the year progressed" (p. 7).

In the case of Regina vs D. (1971), for example, one argument advanced by counsel as mitigating the behavior of the teacher was that his sexual deviance was indirectly provoked by the behavior of his eight year old female pupils. The teacher's defence was that he was influenced by his pupils. The argument was buttressed by a supporting letter to the court from a professional associate documenting the problems posed by the behavior of lower class girls:

> Such young girls sometimes display an unusual degree of aggressiveness in soliciting the attention of older males as well as a propensity to demand that this attention be expressed in physical rather than in verbal ways... The concern of the lower class children with older boyfriends or with physical possessiveness, while of only passing

> notice to the average inner city teacher, might constitute a bewildering and disturbing temptation to someone with deviant tendencies. (Case, 1971, p. 2)

In the context of the curriculum, sorting out the cause and effect relationships underlying sexual abuse requires more than interaction analysis and related curricular theories. Events can usually only be analyzed in detail after the fact. Analysis even then is limited by administrative ramifications, traumatic implications for the children and the fragility of their abilities to relive distressing and confusing classroom experiences. These problems are further compounded by the rights of the teachers facing trial before the courts for sexual abuse in the classroom.

Chapter 4

The Model

4.1 Deficit and defect theory.

Studies of child molestors frequently draw on incarcerated offenders as a primary research resource. Many theories applied to these offender populations also implicitly adopt the medical model of criminality. They emphasize finding what it is that is wrong with the offender that caused him to commit the offence. Gebhard et al (1965), for example, concluded that heterosexual child molestors had distinct personality defects which accounted for their sexual deviance: "This inability was in some cases a personality defect in an otherwise mentally normal man, but in other cases it seems the result of a varying degree of mental deficiency" (Gebhard et al, 1965, p. 81). Deviance, in this view, is caused by physiological or psychological deficits.

Stoor (1964) similarly argued that arrested psychosexual development was a significant contributing factor to pedophilic behaviors. Other researchers have suggested that mental illness (Kurland, 1960), impotency (Hartwell, 1950) and alchoholism and senility (Cushing, 1950), were all significant causal factors in the evolution of adult sexual interest in children.

The approach taken in this paper makes several departures from this line of research. First the data sample is not comprised of offenders who have been studied in prisons or incarcerated in prisons for significant periods. On the contrary most of the offenders in the primary data were not sentenced to any significant period of incarceration. The sole exception being Regina vs I. (1982) where the accused was sentenced to three years in prison. This sentence was reduced on appeal to one year. In Regina vs Q. (1986) sentence was reduced to ninety days on appeal. None of the other teachers included in the primary data served prison sentences.

Secondly the individuals in the primary data are not persistent, repetitive, offenders of the type who may be subject to extended incarceration and study.

These offenders are all articulate, educated and well respected individuals. All held high status in the community for many years prior to their apprehension. None had previous criminal records and all committed their respective offences during the course of employment in the classroom.

The perspective taken on the offenders and the offences is also not deficit oriented and aimed at seeking individual deficits or defects that caused them to commit the offences. Rather than endeavoring to link deviant behavior with individual defects the approach is aimed at revealing the functions of such behavior for the individual offenders: "We cannot recognize the social or psychological significance of adults relating sexually with children unless we analyze the broad emotional and developmental meaning that such behavior has for its perpetrators" (Finkelhor, 1984, p. 34).

4.2 Finkelhor's preconditions.

Rather than developing a definitive explanatory model prior to analysis the approach adopted is to utilize a selected aspect of Finkelhor's (1984) four preconditions for child sexual abuse (Table 1). The

Table 1

Finkelhor's Preconditions

Precondition I.	Motivation to sexually abuse.
	Emotional congruence.
	Sexual arousal.
	Blockage.
Precondition II.	Overcoming internal inhibitors.
Precondition III.	Overcoming external inhibitors.
Precondition IV.	Overcoming the resistance of the child.

Note. From Child Sexual Abuse: New Theory and Research (p. 56) by D. Finkelhor, 1984, New York: Free Press.

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preconditions do not specify theories aimed at therapeutic intervention with identified offenders. The preconditions focus further back in the chain of causation. They target behaviors that precede child molesting in need of theoretical explanation. Like all models the division into the four preconditions is somewhat arbitrary and is used only to focus rather than confine the analysis.

The first two preconditions focus on the offender, the second two on factors external to the offender that may facilitate, or inhibit, the behavior. Each of the preconditions poses a broad generalization covering numerous specific aspects of the behavior. Finkelhor (1984) makes this clear in his charted elaboration of the factors underlying each precondition. For the purposes of this paper it is necessary to narrow further the focus within the preconditions that can be credibly addressed.

4.3 Emotional congruence.

Under precondition one Finkelhor (1984) identifies the concept of "emotional congruence" (p. 54) to describe how relating sexually to the child satisfies some important emotional need. It would be simplistic

to assume that the need is simply for sexual gratification since "all sexual behavior, not just child sexual abuse, is laden with non sexual motivation" (Finkelhor, 1984, p. 34). The sexual component may be important but the underlying nonsexual motives must also be explained if the meaning of the behavior for the offender is to be understood.

The concept of emotional congruence will be used in the analysis of the offending teachers. The objective will be to identify factors that contributed to the offender's emotional congruence with children and to identify events, perceptions and behaviors that may have played a role in the development of the emotional bonds that preceded the behavior. Only when these causal connections have been developed will it be possible to compare these offenders with other child molestors.

To determine whether the differences, if any, are circumstantial the context of the offences and the emotional needs of the offenders will be contrasted with current theoretical explanations of adult sexual interest in children. To suggest that teachers may be "victims of circumstance" implies that there may be causal factors in the classroom that influenced their

behavior. The implication also is that if these circumstances did not exist within the classroom then the offences would not have been committed. This question can be addressed only on a balance of probabilities established by comparison with current theoretical explanations of similar behavior in other contexts.

Apart from addressing the original research question the analysis will indirectly address other important questions concerning sexual abuse in the classroom. What specifically motivated the teachers to become sexually involved with their students? What emotional needs did the relationship with the child meet for the offender? Difficult but important questions with no easy or universal explanations.

Chapter 5

The Problems with Data

5.1 Selecting the data.

Schools abound with rumors concerning incidents of sexual abuse. Ross and Marlowe (1985) note that they had "no trouble finding hundreds of incidents of sexual abuse in North America's schools" (p. xi). Yet they fail to cite a single verifiable case in their work. This is not to suggest that there are no such incidents. The point is that they fail to discriminate rumor and anecdote from documented fact.

Verifiable and carefully documented incidents of sexual abuse in schools are a scarce commodity even when teachers are charged, prosecuted and convicted. Many teachers quietly plead guilty in Provincial Courtrooms. Others may plead not guilty and go to trial. A few cases may be publicized. But in all such proceedings no detailed context of the offence remains in the accessible public domain. Trial transcripts are

available through court reporters but the cost is prohibitive. Informations and indictments are part of the public record but reveal little except the name of the accused, the nature of the allegations and the outcome of the trial. Some information is available from court archives but it is difficult and expensive to obtain. If, however, an accused convicted at trial opts to appeal either conviction or sentence, a wealth of background documentation becomes available as part of the public domain.

5.2 The primary data.

The primary data source for the paper is comprised of those cases which have been appealed to higher courts. Under the criminal appeal rules (Courts of Justice Act, 1984) written documentation of the proceedings in the lower court must be prepared and submitted to The Ontario Court of Appeal as part of a brief for consideration by the appellate court judges. In the case of an accused teacher who is appealing both sentence and conviction the brief will include: verbatim trial transcripts, statements made to the police by the accused, a summary of the factual context of the offence by crown and defence counsel, copies of

the psychiatric and presentence reports and copies of professional references and related exhibits at the trial. In the case of a teacher who is only appealing sentence, transcripts are usually limited to submissions on sentencing by counsel. All other documents listed above are also usually in the appeal brief.

It is these records, freely available for public inspection and photocopying at the office of The Ontario Court of Appeal in Toronto, that are the primary resource for the study. They are the most complete, reliable and thorough records available. They are not a random sample, they are not comprehensive and with the exception of one case (Regina vs D., 1971) none of them are reported in law journals or reports. A reference list of the primary data is contained in Table 2. Offender profiles are detailed in Table 3.

5.3 The secondary data.

A cross Canada database search of Canadian periodicals produced some useful data on numerous other cases. Several cases were also found in law reports or were mentioned as unreported out of province judgments

Table 2

Reference Table: Primary Data

Case	Date	Court	Appeal file number
R. vs C.	(1981).	Ontario Court of Appeal.	File #567/81
R. vs D.	(1971).	Ontario Court of Appeal.	File #224/71
R. vs G.	(1981).	Ontario Court of Appeal.	File #965/81
R. vs K.	(1982).	Ontario Court of Appeal.	File # 95/83
R. vs O.	(1986).	Ontario Court of Appeal.	File #350/85
R. vs T.	(1984).	Ontario Court of Appeal.	File #528/84
R. vs T.	(1982).	Ontario Court of Appeal.	File #1002/82

Note.

All offenders were male.

All victims were molested in school.

The abbreviation R. in the case citations refers to Regina as in Regina vs T.. This is a legal style of cause equivalent to Her Majesty the Queen vs T..

Table 3

Primary Data: Offender Profiles

Case	Victim	Age of offender	Marital status	Age of victim
R. vs C. (1981).	Male	31	S	7-8
R. vs D. (1971).	Female	28	M	7-8
R. vs G. (1981).	Male	32	S	9-10
R. vs K. (1982).	Female	46	M	10-11
R. vs O. (1986).	Male	30	S	7
R. vs T. (1984).	Female	45	S	8-10
R. vs T. (1982).	Male	35	S	11-13

Note.

All offenders were male.

All victims were molested in school.

The abbreviation R. in the case citations refers to Regina as in Regina vs T.. This is a legal style of cause equivalent to Her Majesty the Queen vs T..

in other trial records. All these cases (reported incidences of prosecutions) constitute a secondary source of data. Some were reported in out of province newspapers or periodicals, others were referred to in related judgments. Reasonably complete summaries of most of these cases were found, but the resources and details to be found in the Court of Appeal files are lacking. They contain information that may contribute to the analysis but their fragmented and limited contents renders them unsuitable for use as a primary resource. A reference list of the cases in the secondary data is contained in Table 4. Offender profiles are detailed in Table 5.

5.4 Limitations of judicial records.

The use of court records as a database does have the potential to provide factual context above and beyond that available elsewhere. This situation, however, should not be misconstrued as a rationale for dealing with the data as either conclusive or comprehensive. In utilizing court records it should be kept in mind that the objectives of the judicial processes are not necessarily compatible with the objectives of the behavioral sciences. Trial proceedings dwell on how

Table 4

Reference Table: Secondary Data

Case	Source
R. vs C. (1983).	Unreported judgment of Simcoe County Court, Barrie, Ontario. November 12, 1983.
R. vs C. (1986).	Unreported judgment of the District Court, Vernon, Britsh Columbia. September 9, 1986. Judge K. Arkell.
R. vs D. (1984).	Unreported judgment of the North Vancouver District Court. August 24, 1984.
R. vs G. (1986).	42 Manitoba Reports (2d) 81.
R. vs H-S (1986).	Unreported judgment of the Toronto District Court, September 24, 1986. Judge George Ferguson.
R. vs M. (1986).	Unreported judgment of the Vancouver District Court, October 24, 1986. Judge John Anderson.

table continues

Case	Source
R. vs M. (1986).	Unreported judgment of the New Westminster District Court, British Columbia, February 1, 1986. Judge William Selby.
R. vs T. (1986).	Unreported judgment, Winnipeg, Manitoba. July 27, 1986. Court unknown.
R. vs V. (1984).	Unreported judgment of the New Westminster Court, British Columbia. September 11, 1984. Judge Thomas Fisher.
R. vs N. (1986).	Unreported judgment of the Trial Division, British Columbia Supreme Court, Vancouver. Justice Raymond Paris. June 9, 1986.
R. vs P. (1981).	64 Canadian Criminal Cases (2d) 523.
R. vs R. (1986).	Unreported judgment of the District Court, Nanaimo, British Columbia, June 12, 1986.
R. vs S. (1984).	36 Saskatchewan Law Reports 235 (C.A.).
R. vs S. (1981).	64 Canadian Criminal Cases (2d) 231.
R. vs W. (1977).	Appeal Reports 311 (C. A.).

Table 5

Secondary Data: Offender Profiles

Case	Victim	Age of offender	Marital status	Age of victim
R. vs C. (1983)	M/Fem	40	S	3-6 *
R. vs R. (1986)	M/Fem	44	S	9-14 #
R. vs C. (1986)	Male	36	S	9-10
R. vs N. (1986)	Male	37	M	7-12 *##
R. vs S. (1981)	Male	50	M	9 *#
R. vs P. (1981)	Male	42	M	16-17 **
R. vs M. (1986)	Male	-	S	10-14
R. vs T. (1986)	Male	-	S	----- #
R. vs D. (1984)	Male	44	S	12-13
R. vs V. (1984)	Male	46	S	9
R. vs G. (1986)	Female	46	M	12
R. vs S. (1984)	Female	30	M	12
R. vs W. (1977)	Female	-	M	13
R vs H-S.(1986)	Female	47	S	13-16
R. vs M. (1986)	Female	47	M	13-15

Note.

* Teacher only molested non students outside of school.

** Children molested inside and outside of school.

\# Repeat Offender

events happened and whether or not the criteria for conviction can be met. They often explore only indirectly or selectively the issues underlying the behavior. The question of motive, for example, of intrinsic interest to social scientists, is considered to be a peripheral issue when charges of child sexual abuse are the subject of litigation. Motive may mitigate sentence but does not mitigate the intention of the accused in committing the acts in question. Legal arguments may thus present some aspects in great detail yet only address indirectly facets of the problem relevant to the concerns of social science.

In addressing the question of sentencing, for example, many relevant causal factors may be documented. Yet both parties to the proceedings still retain a multiplicity of motives for suppression of some facts and the emphasis of others. Submissions on sentencing are often constrained by informal agreements between counsel on which facts will be presented and which will be ignored. The criterion underlying such agreements may range from expedience to relevance.

The full elaboration of the context of the behavior is also constrained by rules of evidence defining

stringent limitations on what facts are eligible for consideration or explanation before the courts.

The data used in this paper accept the distinction imposed by the courts as simply guilty or not guilty. Those found guilty in a court of law are included in the sample. Those teachers acquitted and those who resign in response to allegations are not included. This position is taken because judicial outcomes are predicated upon a well defined and explicit set of rules and principles. This approach appears more rational, impartial, and objective than the notion of "Professionally Confirmed Assaults" outlined in a recent study of child sexual molestation (Sexual Offences, 1984, p. 222). Here a child protection worker decides if "a child's account of an assault is believed and/or there is firm evidence indicating the assault has been committed" (Sexual Offences, 1984, p. 223). Yet this study is far from explicit on the issue of what evidence is acceptable, who qualifies as a child protection worker and what burden of proof must be satisfied.

To effectively utilize cases where offenders have been convicted in a court of law it is also necessary to recognize the limitations on the significance which

can be ascribed to conclusions. Documented cases can provide a rich variety of examples, but they cannot provide a foundation for conclusions vis-a-vis the extent of the problem. For example, the assertion that four teachers were convicted of molesting children in 1974 (Sex Offenders, 1984, p. 851) gives no definitive clues about the scope of the problem because there are a multitude of factors, above and beyond guilt and innocence, that divert many classroom allegations away from resolution by the courts (Zarzour, 1987).

5.5 Plea bargaining.

Even in those cases that do go to trial the data may be neither exhaustive nor conclusive. Is it possible, for example, to conclude from the number of convictions registered that this represents the aggregate of offences committed by teachers? The case of Regina vs I. (1984) and others make this conclusion unjustified and unacceptable.

The accused teacher T. (Regina vs I., 1984) was charged with eleven counts of sexual abuse of male students in the classroom. At trial, however, the prosecution made a "deal". Eight of the charges would not be prosecuted on the understanding that they would

be considered in determining the sentence: "The accused has been charged with 11 counts of indecent assault on males... He pleaded guilty to three of these counts and the remainder were stayed on the understanding that they would be considered in determining sentence" (Regina vs I., 1984, Reasons for Judgment, p.2). The trial record would read three offences and three convictions yet the transcripts would reveal an implicit admission of guilt for eleven offences. If the case is not appealed the true nature of the offence(s) and the problem do not survive their verbal presentation before the courts. In the case of T. (Regina vs I., 1984) Statistics Canada would thus record three offences and three convictions: a tenuous and totally misleading statistical depiction of the events litigated before the courts.

Similarly in the case of Regina vs G. (1981) the accused agreed to plead guilty to one offence if other allegations were considered only on the issue of sentence. The crown attorney explains the deal to the trial judge:

> There was of course the charge laid on which Mr G. [the teacher] was arraigned, and had the matter proceeded by way of a not guilty plea there would

> have been some six other counts, as I am sure Your Honour has deduced from the summary of the evidence today.... There was to be, as I made it clear to defence counsel, no hint to this court today that since there was only one charge laid, that this was in some way an isolated act... (Regina vs G., 1981, Transcripts, p. 1J2)

Seven offences, one charge, one conviction, yet sentence was imposed on the basis of all seven allegations.

The foregoing examples are cases which were appealed and where the outcomes of the plea bargaining processes were evident from trial transcripts prepared for the Court of Appeal. They are the exceptions rather than the norm. It should be noted that plea bargaining has little legal validity in Canadian Criminal Courts. Accordingly the negotiations themselves are done in private and off the record: there are no transcripts, no official recognition for the procedure and judges are not legally bound by the agreements whether a party to the negotiations or not. The pattern of problem resolution is that of formalized informalities in which "the law itself has come to be viewed as a kind of inconspicuous background to the

off-the-record activities which are held to be the real points of accomplishment in the justice system" (Brannigan & Levy, 1983, p. 399).

The overall effect is that the concerns of the courts for expediency and protection of children from the ordeal of testifying distort the true nature and gravity of the behaviors involved. Records of such proceedings are therefore only useful for the factual context of those charges not filtered out in pre-trial negotiations. They illustrate the way some events took place. They provide examples of how some teachers came into conflict with the law. They provide some potential insights, but they cannot provide definitive or conclusive data. It is this limitation that underlies the notion expressed at the beginning of the paper that this is a preliminary study - and only a preliminary study.

5.6 Administrative pressures on the accused.

In most cases pressure to engage in plea bargaining commences only after formal charges have been laid before the courts. In the case of teachers a variant of such pressures may intrude into the preliminary discussions in the school office. The objective is to

hide the problem and avoid embarrassing court proceedings. Trial records in the case of Regina vs Q. (1986) provide lucid illustrations of the pressures from both the parents and the school. First from the parents at a meeting in the school office:

> Mr T. [the parent] assured the Appellant [the teacher] that if he admitted the action and left the school, charges would not be brought and he would put it in writing. The Appellant outlined matters in which they were in agreement, namely the idea of wishing to keep it quiet. (Regina vs Q., 1986, Appellant's Factum, p. 22)

The teacher did not want the label child molestor. The parents did not want their children publicly identified as victims and the school also wanted its role kept from the public eye. In the case of Regina vs Q. (1986) the emphasis on covering up the problem is evident in transcripts of a conversation between the Superintendent and the parents of one of the alleged victims:

> Mr. G. [Superintendent] testified that he advised the parents that he shared their goals which involved an admission of guilt by the Appellant [the teacher], leaving the classroom and

> seeking psychiatric assistance. Mr G. told the parents that the information he had received from the Appellant had not seemed to suggest innocence. (Regina vs Q., 1986, Appellant's Factum, p. 19)

The inescapable dilemma confronting the teacher makes resignation an attractive proposition regardless of the question of guilt or innocence. This is evident from the accused teacher's perception of his situation:

> My feelings at that point [discussion with the director], and knowing how society at large views a case like this, as well as the fact that it was a small school and a small town, that I thought my reputation was tarnished and no matter what, if I was found guilty or innocent that I was already at an extreme disadvantage.... My feeling was that I didn't think that I would be hired by anyone even having a taint like that. (Regina vs Q., 1986, Transcripts, Volume K, p. 127)

The predicament perceived by the teacher in this case is not necessarily unique to teachers. The situation for teachers is distinctive in the sense that the pressure is more pronounced to keep the problem under wraps.

Fear of public labelling and ostracism is one reason why many accused teachers may find it easier to resign than go to court. The effects of a conviction on their status in the teaching profession is another. Should the teacher be convicted the Ontario Ministry may initiate proceedings to cancel the teaching certificate. If court proceedings are avoided the teacher may retain professional status and the school has avoided embarrassing publicity. This practice can allow a wrongly accused teacher to avoid a dilemma potentially fatal to his/her status in the teaching profession or it can allow a guilty teacher to move on to another school to repeat the offence.

In the case of Regina vs R. (1986) the accused resigned when accusations were made in an Ontario school and was subsequently convicted of molesting children in his class in British Columbia. The accused teacher in Regina vs N. (1986) systematically resigned whenever allegations were made and kept doing so until charges were finally laid.

Considering the multiplicity of pressures that are brought to bear on teachers who are accused of sexual activities with students a healthy skepticism of any

conclusions (of guilt or innocence) based on the submission of a letter of resignation by the teacher seems appropriate.

Underlying all data derived from judicial proceedings is a complex matrix of quasi-legal and extra-legal factors with potential to influence the visible shape of the problem. While specific violations of the law form the basis of criminal litigation other informal influences must be considered if the meaning of the data is to retain a credible level of precision. These problems are compounded by the number of different offences that may form the basis for criminal proceedings against teachers acccused of sexual abuse in the classroom. Understanding the data must include an understanding of both the legal context of the offences and the essential ingredients of the offences themselves.

5.7 The illusion of precision.

Not all teachers charged with sexually abusing students face similar charges. Sexual abuse of children is not a specific criminal offence. It is behavior that may fall within the parameters of several provisions of the Criminal Law, each defining and prohibiting

certain specific sexual activities. The activities that brought these teachers before the courts and the legal parameters of the offences they committed are important contextual components of their emotional congruence with their victims. Congruence has to be considered in terms of the social context of the behavior. In the case of these teachers this context has to include the acts, the classroom relationships and the meaning of the offences underlying the prosecutions.

Like all criteria used to define or categorize behavior the law poses some problems and resolves others. There are two sources of law. One aspect of the law (legislative statutes) depends on the other (judicial cases) for its meaning. Understanding case law or statutes independent of each other is like trying to analyze the meaning of only one side of a conversation, without listening to the other.

Consider, for example, the statutory offence of "gross indecency" (Criminal Code, 1953-54, s. 157). The statute does tell the reader that it is an offence to commit "an act of gross indecency" (Criminal Code, 1953-54, s. 157) but it does not explain just exactly what constitutes an act of gross indecency and what

does not. The courts, in dealing with the practicalities of the law, give the concept a more precise meaning. Thus only if both the statute and the case law are examined in unison can the law provide a reasonable and defensible definition of the prohibited behavior.

Yet such a criterion would be more precise, for the purposes of this study, if the legal definitions of prohibited behavior were stable over time. Legal precedents do usually evolve with some logical continuity, but this continuity can be shattered when the underlying statute is subject to major revisions. Statutes concerning sexual prohibitions, which have been continuously undergoing major amendments for the last five years, have only marginal stability and continuity.

Changing laws may bring some teachers into conflict with the law and/or eliminate conflict for others. The offence of rape (Criminal Code, 1953-54, s. 143), for example, has been deleted from the Criminal Law (S. C., 1980-81-82, c. 25, s. 6) and replaced with new provisions (s. 246.1, 246.2, 246.3): three new offences differing substantially from those repealed. The consequences of changes to laws affecting

childrens' legal ability to consent to various sexual acts must also be considered, along with changes in the evidence required for conviction. In the area of sexual offences such changes appear to be part of an ongoing, dynamic process. Currently a parliamentary committee is studying yet further proposed new child sex abuse laws (Vienneau, 1986).

While this situation is not fatal to the data it does have some potential to clutter and confuse. In the case of Regina vs D.(1971), for example, the accused teacher was convicted of indecent assault. This offence has now been deleted from the Criminal Code. Similarly, a teacher convicted of fondling male pupils in 1981 (Regina vs C.) was convicted of indecent assault. Another teacher who fondled his male pupils in the same way in 1984 (Regina vs Q.) was convicted of sexual assault. The offence of indecent assault had been repealed and replaced with the offence of sexual assault when the second teacher (Regina vs Q.) was charged in 1984.

For the purposes of this study articulation of all the changes is neither feasible nor necessary. Rather than endeavor to integrate the old offences with the current offences, the old statutes will be summarized

to define what behaviors the old offences addressed along with a summary of the offences involved in the more recent cases. The objective is only to outline the laws violated by the teachers in the study and to specify the essential ingredients of the various offences committed in the classroom.

5.8 The offences.

Breaking down the sources of primary and secondary data reveals that all offending teachers were convicted of one or more of the following three Criminal offences: Sexual Assault (Criminal Code, 1953-54, c. 51, s. 246.1), Gross Indecency (Criminal Code, 1953-54, c. 51, s. 157), Indecent Assault (Criminal Code, 1953-54, c. 51, s. 149 [female], s. 150[male]). The offences of Indecent Assault (male and female) and rape were repealed by Parliament in 1982 (Statutes of Canada 1980-81-82, c. 125, s. 6) and replaced by the current Sexual Assault provisions of the Criminal law (s. 246). The offences of Indecent Assault and Sexual Assault are not identical offences. It is possible, however, that offenders who would have been charged with the latter offence were charged with Sexual Assault (Criminal Code, 1953-54, c. 51, s. 246.1) when the Indecent

Assault provisions of the Criminal Code were repealed. These and related possibilities must be considered before any significance is ascribed to teachers' conviction rates for the various offences.

5.9 Actions & intentions.

"The thought of man is not triable, for the devil himself knoweth not the thought of man" (Burchell & Hunt, 1983, p. 144). The common elements underlying all criminal offences are the concepts of actus reus (prohibited act) and mens rea (guilty mind). Neither can stand alone as the basis for a criminal conviction.

As pointed out by Burchell & Hunt (1983) it is not an offence to contemplate breaking the law. For the offence to be complete "there must be some act which puts the accused's guilty mind into action or at least goes part of the way towards doing so" (Burchell, Hunt et al, 1983, p. 143). For example, if Ron and Joe simply discuss the best way to make illicit whiskey from rye and yeast they have not committed an offence. As long as it's just talk. If, however, following the discussion Joe or Ron buys the materials to make a still, or purchases a quantity of rye and yeast, then the mental element (mens rea) "has displayed itself in

some definite overt act" [actus reus] (Stuart & Deslisle, 1986). Joe and Ron have, thereby, committed the offence of conspiracy.

In sexual offences the issues of actions (Actus reus) and intentions (Mens rea) are not quite as simple. Intention is not always verbalized and often has to be inferred from the circumstances and/or the actions of the participants. Consider, for example, the "Kissing Case" heard by a British Court in 1875 (Baker vs The Queen). Here the judge's charge to the jury stated:

> If a man kisses a woman against her will for the purposes of gratifying a carnal feeling in his own mind or to excite a carnal feeling in hers, it is for you [the jury] to say whether it is not an indecent assault. So that, if you are satisfied that the defendant kissed her with such feelings... [there would be an assault]. (Baker vs The Queen, 1875, p. 89)

Would it make a difference if the kiss was on the hand, on the cheek, or elsewhere? Is it the kissor's intention that is crucial or the recipient's, perhaps inferred, perception of the meaning of the kiss that makes a kiss indecent, polite, affectionate or

assaultive? When is a teacher's hand on a child's arm positive reinforcement and encouragement and when is it something more sordid? These issues abound in the litigation on sexual offences. A summary of the elements of the offences committed by the teachers covered by the study follows.

5.10 Indecent assault.

The indecent assault provisions of the Canadian Criminal Code (s. 149 female; s. 156 male) were repealed in 1982 (Statutes of Canada, 1980-81-82 c. 125, s. 8). Prior to this date several teachers were convicted of indecently assaulting their students. An indecent assault is essentially an assault committed in circumstances of indecency (Swietlensky, 1980). The offence thus has two components: first an assault and second circumstances of indecency. Both must be proven or the offence is not complete.

To the layman assault and battery are often perceived as synonymous (Parker, 1983, p. 318). Yet the legal offence of assault, and indecent assault, can be committed without battery (actual physical violence). Assault is defined by the Criminal Code (1953-54, c. 51, s. 244). The offence can be

committed in three different ways: When, (a) without the genuine consent of another person he intentionally applies force to another person, (b) he attempts or threatens, by act or gesture, to apply force to another person, or, (c) he causes another person to believe, on reasonable grounds, that he has present ability to apply force (Criminal Code, 1953-54, c. 51, s. 245). These definitions of assault apply to the "indecent assault" provisions of the Criminal Code (1953-54, c. 51, s. 149, s. 150).

The legal concept of assault did little to protect children because "where an accused invites a child to touch him, but neither touches nor threatens to touch the child in return..." (Sexual Offences, 1984, p. 311) the courts have held that no assault has been committed. And without the element of assault there can be no indecent assault. But teachers were an exception to this rule.

Consider for example the case of Regina vs I. (1984). The accused, an elementary school teacher, asked the eight year old complainant:

> To stay after school, and took her to the room adjacent to the classroom. He undid the zipper on his trousers, exposed himself and asked the

complainant to touch his genitals. He eventually took her by the arm and she did touch him.

(Regina vs I., 1984, Appellant's Statement, p. 5)

Had the child responded to the verbal invitation alone (and had the accused not been the child's teacher), there would have been no indecent assault. Similarly if the child had refused the invitation and left there would have been no indecent assault (Regina vs B., 1971). When, however, the accused took the child's arm the force necessary to qualify the behavior as an assault was present and the offence was complete.

But for a teacher to commit this offence it was not necessary for the teacher to touch the student. The exercise of authority by a teacher, over a student has, in the context of the school, been considered by the courts to be a form of force fulfilling the assault component of the offence (Regina vs C., 1980). Thus, in this particular case, the teacher would have been guilty of indecent assault if the child had merely touched the accused in response to the verbal invitation.

Assuming that an assault has taken place when is such an assault indecent? This is a question that has

been left to the judiciary. Parker (1983) summarized the findings of the courts:

> If the part of the body touched is not one generally associated with sexual gratification, the onus is on the crown to prove that the assault was intended to be of an indecent nature. If the part of the body is so associated, then the accused will be obliged to offer some evidence as to why it should not be judged an indecent assault. (p. 318)

As pointed out by Justice Middleton of the Supreme Court of Ontario the overall context in which the acts took place is a crucial consideration:

> It appears to me that an act in itself ambiguous may be interpreted by the surrounding circumstances and by words spoken at the time the act is committed.... It is in each case a question of fact whether the thing which was done, in the circumstances in which it was done, was done indecently. If it was, an indecent assault has been committed. (Regina vs Chong., 1914, p. 67)

In the case of Regina vs C. (1980) the accused, an elementary school teacher, allegedly disciplined an eight year old boy who bumped into another pupil on the way to class:

> The respondent [the teacher] saw him and ordered him into a nearby washroom. The respondent ordered the boy to take down his pants and underpants and the boy complied. The respondent then knelt down in front of the boy and while discussing his behavior, briefly touched the boy's genitals with his fingertip or fingertips. (Regina vs C., 1980, Agreed Statement, p. 3)

There were similar allegations by other students who had been taken to a janitors closet for the same "disciplinary" measures. At the trial the teacher (Regina vs C., 1980) testified to the effect that:

> He was only interested in disciplining the boys by embarrassing them to a certain extent. His evidence was that the touching of the boys' genitals was accidental in each case. He was of the view that he was guilty of a lack of professional deportment. (Regina vs C., 1980, Agreed Statement, p. 4)

The trial judge's analysis of the case (Regina vs C., 1980) focusses first on the issue of whether there was an assault. Without evidence of an assault there can be no conviction for indecent assault:

> In this incident, each of the boys were under your direction, you being a person of authority in relation to them. You directed them to remove their trousers and their underwear and were in contact with their person. In my view that involves an assault and you did that without their consent, and you intentionally applied force to them, that arose as a result of your position of authority. (Regina vs C., 1980, Reasons for Judgment, p. 4)

Having concluded that an assault had taken place the trial judge went on to determine whether or not the assault was indecent. As specified by Parker's (1983) rule concerning the part of the body touched, the onus was now on the teacher (Regina vs C., 1980) to justify his behavior:

> You have stated to the officers that you did not know why you chose this method of discipline. And in cross examination, as a result of questions put to you, you said you had no explanation for touching of the boys' private parts. At the same time you stated that you had no intention, or no preformed intention, to indecently assault them.

> Your intention is ascertainable from your words and your gestures. (Regina vs C., 1980, Reasons for Judgment, p. 5)

The judge supported his conclusion of guilt with the factual context of the offences: isolated from other students and staff, the kneeling, spanking and touching and the failure of the teacher to explain "why you would touch their genitals if your reasoning was to discipline them in this way by spanking or embarasssing them" (Regina vs C., 1980, Reasons for Judgment, p. 6).

Consent is also an important issue in cases of indecent assault. The Criminal Code (1953-54, c. 51, s. 140) provides that a person under fourteen years of age is not legally capable of consenting to an indecent assault. Since consent is not an issue in any of the cases in the study an in depth discussion would serve no useful purpose. For additional information on the meaning of "genuine consent" (Criminal Code, s. 244) see the cases of Bolduc and Bird vs The Queen (1967) and Regina vs Maurantonio (1968).

5.11 Acts of Gross Indecency.

The provisions of The Canadian Criminal Code (1953-54, c. 51) make it an offence "to commit an act of gross indecency with another person" (s.156). Yet there is no definition of the concept of gross indecency in the Criminal Code. Even one of the authors of this particular law was not sure exactly what was being prohibited: "I do not know what an act of gross indecency between a man and a woman is, but whatever it may be, it is now an offence" (Sedgewick, 1955, p. 63).

In 1974 the Ontario Court of Appeal approved a definition of gross indecency as "a very marked departure from the decent conduct expected of the average Canadian in the circumstances that you find existed" (Regina vs St. Pierre, 1974, p. 489). The Appeal Court went on to add that:

> On this issue expert evidence is admissible as to social practices carried on in this country which are not regarded as abnormal or perverted.... In determining whether what was done was an act of gross indecency, the consent of the complainant along with all other circumstances including her age, is a relevant consideration. (Regina vs St. Pierre, 1974, p. 489)

Consider, for example, the perception, meaning and implications of acts of fellatio in two different contexts. In the case of Regina vs P. (1968) the Manitoba Court of Appeal ruled that: " Acts such as fellatio do not as a matter of law constitute gross indecency within the meaning of this section" (Regina vs P., 1968, p. 129). The implication is that they may in some circumstances and they may not in others. In this case (Regina vs P., 1968) the accused, consenting adults, engaged in the act in the privacy of their kitchen in the early hours of the morning. They were observed through a window in the front door by police attempting to execute a liquor warrant. Both parties to the act were acquitted by the courts.

In the case of Regina vs C. (1986) the situation was quite different. The accused, an elementary school teacher, was convicted of gross indecency for participating in acts of fellatio with nine and ten year old boys. The children were students in the teacher's class who had been invited to play in the area under his desk at the front of the classroom. An area they called "the fort" (Baldrey & Warner, 1986 , p. A1). With the classroom door locked and with the

other students working at their desks, the boys in the fort were encouraged to masturbate and fellate the accused teacher.

This is an extreme example but it does highlight the principle that acts, which may in some circumstances be merely indecent, in other contexts may be considered gross indecency. Similarly, in other circumstances, as described in Regina vs P. (1968), such acts may not be considered indecent at all. The context of the behavior and judicial perceptions of the parameters of socially acceptable sexual activities are the two key criteria used to determine guilt or innocence.

5.12 Sexual Assault.

The offence of sexual assault was enacted by Parliament to replace the Rape and Indecent Assault provisions of the Criminal Code (1953-54, c. 51, s. 143, s. 149 and s. 150 repealed S. C., 1980-81-82 c. 125 c. 6). Teachers convicted of this offence in the study were convicted of only simple sexual assault (Criminal Code, 1953-54, c. 51, s. 246.1). The other two categories of sexual assault involve sexual assault

with threats or a weapon (s. 246.2) and sexual assault with "wounding, maiming, disfigurement or endangering of life" (s. 246.3).

Both indecent assault and sexual assault share the element of assault outlined previously in the section on indecent assault. The main difference is to be found in the qualifying adjectives - sexual versus indecent. Indecent assault focussed on the nature of the act(s) that accompanied the assault (Regina vs Chong, 1914). Sexual assault focusses on the intention of the accused when the assault was committed: "Sexual assault includes an assault with the intention of having sexual intercourse with the victim without her consent, or an assault made upon a victim for the purposes of sexual gratification" (Regina vs Adlerton, 1985, p. 269).

The Alberta Court of Appeal expanded on the implications of Adlerton in the case of Regina vs Taylor (1985) when the court specified that:

> A sexual assault is an act of force in circumstances of sexuality and includes an act which is intended to degrade or demean another person for sexual gratification and is not limited to acts of force involving the sexual organs.

> While the determination of whether there is a sexual aspect is presumably an objective one, that aspect may be demonstrated by examining the purpose of the accused and the perceptions of the victims. (Regina vs Taylor, 1985, p. 283)

The cross examination of the accused teacher in the case of Regina vs Q. (1986) provides valuable insights into how the above cases can pose serious concerns for teachers on trial. The teacher was accused of sexually assaulting students sitting on his knee. Under cross examination by the crown attorney he explains how he would move the children:

> Q. You are indicating that by the way you have your hands positioned that you were placing your hands under the thighs?
>
> A. Yes, under the thighs. High on the thigh, like between the knee and the thigh.
>
> Q. Is it possible that in moving the child in that way your hand may have been in the area of what is generally described as the groin or the top of the thigh?
>
> A. Yes.
>
> Q. And it's the very danger of bringing your hand in contact with the genitals of another person, it

makes it an intimate act, is what I put to you?

A. Yes.

Q. Well isn't the whole object as we go, move through society? Is that you try to avoid acts where it'll bring you into contact with another persons genitals? You avoid that type of contact though do you not?

A. Yes.

Q. There's a place for intimacy and it certainly isn't on the carpet in the back of the grade two classroom, is that not the case?

A. In a classroom situation, yes.

Q. And that in touching the child in the way in which you have described, is a most unusual way of adjusting the position of the child on your knee?

A. I don't find it that unusual.

Q. You know if you and I and other men were hiring a taxi, a lot of us had to get into the back seat or something and if I were on your knee, that's not the way you'd adjust me is it? (Regina vs Q., 1986, Transcripts, Volume H, p. 160)

Coupled with the fact that the children had objected to the touching by the teacher and complained to their parents, the Crown's analysis of the behavior

of the teacher met the criteria outlined in Regina vs Taylor (1985) and resulted in a conviction for sexual assault.

As in indecent assault and gross indecency the defence of consent was not available. The Criminal Code (1953-54, c. 51, s. 139) specifies that consent is no defence where the child is under fourteen years of age.

The legal definitions of offences do more than merely provide the framework for prosecution of offenders. These laws define the parameters of the activities that society defines as unacceptable and criminal. How the offenders developed emotional bonds with their students cannot be meaningfully isolated from the consequences of those bonds, criminal prosecutions. In their professional capacity all of the accused would be eminently aware of their role as educators. An integral component of this awarenesss would include knowledge of the consequences of violating their professional role expectations.

Explaining the role of emotional congruence with students is an important priority in understanding the chain of causation that brought these offenders before the courts.

Chapter 6

Offenders Against Male Children

6.1 Offender profiles.

For purposes of discussion the offending teachers have been split into two groups based on the gender of the victim. Neither the categorization nor the analysis is concerned with establishing definitive adult sexual preferences above and beyond the role such preferences may have in explaining or provoking the offences committed by the respective teachers (Newton, 1978). The aim is only to explain the offenders sexual or "psuedosexual" (Groth, 1977) involvement with children in the classroom.

Of the seven cases in the primary data four involve offences against male children. In the secondary data there are eight offenders against male children with data for two of these cases severely restricted in scope.

Three of these secondary cases cases involve chronic and persistent child molestors with histories of admitted offences. Regina vs S. (1981) involved a teacher who molested children outside of school for many years. Regina vs N. (1986) involved a teacher who was an admitted pedophile prior to employment as a teacher and who admitted molesting children in school for fifteen years before apprehension. Regina vs I. (1986) involved a school counsellor previously convicted of molesting children in three other provinces prior to his conviction in Manitoba in 1986. These cases have been excluded. Regina vs M. (1986) was also excluded from the data. This accused was an admitted homosexual dance teacher who was previously warned about sexual improprieties with his elementary level students, but was only convicted of sexually molesting his own stepchildren outside of school. This offender also used threats to conceal his activities.

The case of Regina vs P. (1981) was also eliminated due to the age of the victims and the circumstances. This accused was a 42 year old, married, high school principal (with three children) convicted of indecently assaulting (fondling) sixteen and seventeen year old male students. One offence was committed in his home

and the other occurred at a school dance. Both victims in this case were legally capable of consenting to the acts. Their respective ages also pose difficult questions concerning whether the offender perceived his victims as children or as adults.

Eliminating recidivists, persistent offenders and teachers who only molested non-student children outside of the school, leaves only those teachers in the sample that have no previous history of child molestation and whose offences were committed in schools. Other teachers are eliminated from the data on the basis that their aberrant behavior developed outside of the classroom and/or they had a documented history of child sexual molestation predating their classroom role. This is consistent with the previously expressed emphasis on how such problem behaviors develop in the context of the classroom. Whether or not there are significant differences between teachers convicted of sexually molesting their students and other child molestors can only be determined if other child molestors are excluded from the data. The presence of these individuals in the classroom is a serious issue, but it is an issue that cannot be addressed in this paper.

A summary of the profiles of the remaining offenders against male children appears in Table 6.

All of the offenders against male children were multiple offenders in the sense that they were sexually involved with more than one child. The exact number of children involved in the offences is difficult to determine due to the previously documented problems imposed by the plea bargaining processes. For similar reasons it is also difficult to determine exactly how long the offenders were sexually involved with their students.

All offenders against male children in the primary data were involved in touching and fondling behaviors. Regina vs V. (1984) in the secondary data also falls into this category. None of these cases gives any indication that the molestation activities were evolving into more intrusive sexual behaviors such as oral-genital acts. There was no evidence of threats or overt coercion in any of the allegations. In all of these cases the acts were repetitive incidents similar in character: genital fondling or touching of the children through the clothes, under the clothes and/or without the clothes.

Table 6

Offenders Against Male Children

Case	Age of teacher	Marital status	Age of child	Admitted offences	Convict-ions	
			Primary data			
R. vs O. (86)	30	S	7	0	3	#
R. vs C. (81)	31	S	7-9	3	2	*
R. vs G. (81)	32	S	9-10	5	1	*
R. vs T. (82)	35	S	11-13	11	3	*
			Secondary data			
R. vs C. (86)	36	S	9-10	0	10	#
R. vs D. (86)	44	S	12-13	2	2	*
R vs V. (84)	46	S	9	1	1	*

Note.

Not guilty plea

* Guilty plea

All of the victims were molested in school.

( ) Indicates the year of the judgment.

Regina vs C. (1986) and Regina vs D. (1984) in the secondary data involve more intrusive offences. Both of these offenders were charged with multiple counts of gross indecency. The former case involved oral genital acts performed on the teacher by nine and ten year old students, the latter involved similar acts performed by a teacher on a student. Neither of the offenders had a previously documented history of similar behavior. Since comprehensive materials on these two offenders are not available the differences can only be noted rather than explained.

Documenting the number of admitted offences also poses some problems. Regina vs I. (1982), for example, admitted to eleven offences. In the case of Regina vs O. (1986), however, the teacher denied all allegations and admitted to no offences at all. At trial he was convicted of three offences and aquitted of one. The other offenders in the primary data pleaded guilty. All of these offenders were convicted of indecent assault or sexual assault depending on the year the charges were laid (See section 5.7). Discrepancies between the number of offences admitted by the accused and the number of convictions registered in court represent the outcomes of plea bargaining. The

exceptions being Regina vs D. (1986) and Regina vs C. (1986) where the accused teachers denied all allegations.

6.2 Experiences of intimacy.

The offences committed by the offenders against male children all have a component that could readily be labelled sexual. The sexual component, however, is only one aspect of the behavior. It may be the most visible and expedient to label but it may also conceal many other underlying meanings and motives. The emotional, physiological, social and psychological components of behavior are all contributors to human perceptions and reactions. Explanations at this level must thus go beyond the label "sexual" and endeavor to dissect the meaning of the behavior for the participants. The objective is to identify potential explanations for the "fit between the offender's emotional needs and the child's characteristics" (Finkelhor, 1984, p. 38). Why were the teachers "emotionally congruent" (Finkelhor, 1984) with their students?

In endeavoring to explain the involvement of these teachers with their pupils the biographical profiles

prepared by the courts and psychiatric facilities were compared. For the offenders against male children these reports reveal certain similarities that may provide a starting point for theoretical explanation. Inevitably searching for commonalities among diverse personalities grouped together solely on the basis of isolated highly role specific behaviors must ignore some factors unique to individual cases. It is not suggested that factors not discussed are necessarily insignificant. A comprehensive analysis of each offender and the group would be unmanageable. The emphasis on the group as a whole is a choice that will inevitably affect the direction of the discussion and the shape of the conclusions. The suggested theoretical explanations and conclusions should be evaluated with this caveat firmly in mind.

In varying degrees all of the offenders against male children in the primary data demonstrate a paucity of intimate relationships. One of the teachers (Regina vs Q., 1981) had no sexual experience at all: "His sexual profile was atypical for someone his age because he admitted to no sexual contact with another person of either sex" (Regina vs Q., 1981, Psychiatric Report, p. 2). Another of the teachers (Regina vs Q., 1986) was

also described as "sexually naive" (Psychiatric Report, p. 2) admitting only four serious relationships since age fourteen, the longest lasting two years. The same in the case of Regina vs C. (1981). This thirty one year old teacher dated from the age of fourteen but admits to only one serious relationship. The fourth teacher in the group (Regina vs I., 1982) is also characterized by his lack of capacity for sexual intimacy with his peers: "His goals had always been to marry and have children of his own yet for years he found himself unable to enter into any intense intimate relationships with a woman" (Regina vs I., 1982, Psychiatric Report p. 2).

What appears as a contradictory commonality in these records is the fact that all of these men were more than capable of maintaining satisfactory relationships with their colleagues in the schools. Without exception, all had considerable support from colleagues and friends during the court proceedings.

The question of how these men could maintain friendships and at the same time be incapable of intimacy is perplexing. Barlow (1977) theorized that there are two components of social behavior that are prerequisites to subsequent sexual behavior: "First

the chain of social behavior which precedes sexual behavior, and secondly the important psychosocial factors involved in maintaining a relationship with an adult" (Barlow, 1977, p. 73). In explaining the etiology of child sexual molestation Howells (1979b) argues that: "A pedophile may experience difficulty, but cope, with the phase of initiating a relationship, and fail utterly at the phase of friendship requiring a capacity for expressing and receiving intimacy and for making self disclosures" (p. 73).

A prime example of this incapacity for intimacy appears in Regina vs G. (1981). This teacher admitted to one serious relationship with a 29 year old female colleague but insisted there was no sexual contact even though she lived with him for one full summer. He did admit that "he was aroused by her on some occasions" (Regina vs G., 1981, Psychiatric Report p. 2) but rationalized his celibacy in terms of "saving it for marriage" (Regina vs G., Psychiatric Report p. 2). The report in the case of Regina vs I. (1981) reveals an almost identical pattern. This teacher admitted that he had been very friendly with a female teacher at his school and they have dated for some five years: "Unfortunately [he] finds he is not sexually excited by

her and has resisted any physical advances towards her despite acknowledging that success in this area could be very reassuring" (Regina vs I., 1981, Psychiatric Report p. 3).

Reports in the other two cases are not quite as explicit but many of the same traits appear. The report on Regina vs Q.(1986) suggests sexual naivety, lack of self confidence and insecurity. Feelings of sexual inadequacy were reported as one outcome of the psychological testing (Regina vs Q., Psychiatric Report, p. 4). A self portrait provided by the defendant in Regina vs C. (1981) also is characterized by lack of self confidence, personal insecurity and an ability to repress feelings (Regina vs C., Psychiatric Report, p. 2).

It is not suggested that the causes of the behavior are similar in all four cases. The reports reveal that clearly this is not the case. The discussion is framed only in terms of the effects that these potentially problematic behaviors may have had on the teachers' activities in the classroom. The causes of these traits are important but are of such diversity as to put many of them beyond the scope of this paper.

The confusion of cause and effect is a pervasive problem in discussing the cause of human behaviors. Considering that all of these offenders were subject to evaluation after the fact it would be possible to take polar opposite positions on the questions of cause and effect. Did these offenders avoid peer intimacies because of hidden sexual deviance and fears that such intimacies might lead to exposure, or, is the chain of cause and effect reversed? Did the offenders engage in child sexual molestation because of an inability to overcome internal obstacles to intimacies with adults?

Adopting the latter position does not necessarily clarify the chain of causation. If it is assumed that these offenders chose children because of an inability to achieve intimacy with adults, however caused, difficult questions still remain. Why do all adults who have difficulty exchanging intimacies with other adults not gravitate to intimate relationships with children? More specifically, how can the choice of children be explained?

6.3 From conflict to congruence.

One of the more traditional explanations for such choices involves what Gebhard et al (1965) have called

"situational" (p. 78) factors. While this has the potential to be a useful theoretical tool, without an explicit clarification of the fit between offenders and specific social situations it has equal potential to become a dangerous and misleading generalization.

There is no evidence in any of the records of these teachers of any conscious or deliberate manipulation to gain access to children. Is there then some particular aspect of their perceptions and reactions to the teaching role that catalyzed an inappropriate response to unfulfilled intimacy needs?

As teachers they exercised both authority and control in the classroom. Loss & Glancy (1983) have suggested that relating to a child is congruent for some adults because it gives them the feeling of control. Howells (1979a) reached a related conclusion concerning the social difficulties of child molestors:

> One such difficulty might be an inability to control the social environment.... Such a person might find the company of children rewarding, in that it might provide him with a situation in which he is relatively competent, in control, dominant, an initiator rather than a follower. (Howells, 1979a, p. 525)

While this definition matches many of the expectations of the teaching role, in the absence of evidence of manipulative access to the children, a closer look at the specifics of the situation is essential.

One probable outcome of the involvement of these offending teachers in the teaching role would be considerable conflict between their insecure social status outside the classroom and the professional role expectations imposed on them inside the classroom: the latter role being reinforced by an institutional (adult) authority dominating them from outside the classroom, the principal. Inside the classroom they controlled the students yet they were still controlled by adults outside the classroom.

All four cases in the primary data document poor social relations with peers. In the case of Regina vs G. (1981) the offender changed schools due to an inability to communicate with his principal and later complains of finding himself "in charge of children whose parents were rather aggressive and demanding" (Regina vs G., 1981, Psychiatric Report p. 2). The report in Regina vs C. (1981) also reveals this type of conflict. Following a description of the offender as insecure and unassertive the report goes on to conclude

that "He is able to assert himself at work [in the classroom] and has a reasonably good opinion of himself there" (Regina vs C., 1981, Psychiatric Report, p. 2). The implication is that his self perception differs substantially inside and outside the classroom.

Conflicts experienced in the teaching role may also not just be functions of role expectations. Perceived differences between the respect and empathy the teacher receives from children inside the classroom may contrast sharply with the insecurity and self doubt these offenders feel among peers. The conflict between these perceptions could reinforce behaviors confirming the peer problems: acceptance by the children would be a more positive experience than peer rejection, whether real or imagined.

The pattern evident in the reports shows that the offenders tend to focus on their school role to the exclusion of most other outside interests. Their successes in the classroom provide both catalysts and opportunities for compensating behaviors. Respect and recognition in the classroom would provide the catalyst. Positive reinforcement and rapport developed

and maintained with the students, would provide opportunities for stronger emotional bonds between student and teacher.

Judicial records of these cases abound with emotional descriptions of the children by the offenders. The offender in the case of Regina vs I. (1981) describes the classroom as an "intimate situation" (Psychiatric Report, p. 2). The psychiatrist testifying in the case of Regina vs C. (1981) told the court that to the offender "those children really, basically almost became like his own children..." (Transcripts, p. 26). The question then arises as to why the expressions of affection and close ties with the students evolved into inappropriate genital fondling?

The context of all behavior can be said to affect both the meaning and the social acceptability of the response. Affectionate behaviors are no exception. As pointed out by Gebhard et al (1965) such behaviors can have a component of ambiguity:

> In our culture the dilemma is solved by assuming that physical contact is not sexually motivated in certain cases. For example, we see a sexual element when an unrelated male and female embrace, but when

> a mother and son embrace we automatically reject the idea of there being any sexuality involved. (Gebhard et al, 1965, p. 55)

It may be difficult to comprehend how a mature, educated, adult with a paucity of emotional intimacy but a wealth of social experience could misunderstand the signals conveyed by affection seeking children in the classroom. Responses to ambiguous behaviors, or even overtly affectionate behaviors, however, may be as much physiological as they are intellectual and emotional. The nature of the response may also be as much a function of personal needs as it is of social meaning:

> Humans, however, are not psychologically and physically so constituted that a particular act can always be invested with purely sexual or asexual overtones as the social situation may demand... It is easy to envision how a person under stress and starved for affection might find in the uninhibited responses of a child a strong sexual stimulation. (Gebhard et al, 1965, p. 55)

The meaning of affectionate behaviors then is derived from the social context and the nature of the response. If, as suggested by Gebhard et al (1965),

there are limitations on our ability to conform to cultural prescriptions, it does not seem unreasonable to conclude that the abilities we do have are based on personal experience with the behaviors.

6.4 Parents and peers.

This line of reasoning poses potential problems for the offending teachers. Two of the primary sources for defining appropriate responses for affectionate behaviors would be parents and peers. As previously documented the offending teachers have almost no experience in intimacies with peers. All four offenders also profess to have had no bonds of affection with their fathers, who are characteristicly described as "not being approachable" (Regina vs Q., 1986, Psychiatric Report p. 2). The most poignant description of the family experience is found in the presentence report of Regina vs I. (1982):

> Offender acknowledged that there was little emotional closeness within his family. He said he never remembered having the experience of communicating feelings of love to his parents or of his parents cummunicating feelings of love to him. There was apparently little by way of physical

> touching, holding, embracing in the parent sibling relationship. Parents themselves did not openly demonstrate these things in their own relationship. (Presentence Report, p. 5)

The lack of fulfillment of these intimacy needs could result in a hypersensitivity to affectionate behaviors, or behaviors perceived as affectionate in the classroom. Success in the classroom and the resulting increase in personal rapport with students has the potential to become the sole source of meaningful social success and acceptance for these teachers. Ongoing success experiences with students could intensify their perceived social isolation outside the classroom. One consequence is that their teaching relationships with students could eventually substitute for needs not met in peer relationships. A lack of experience with affection and intimacy may add to the problem by mixing their frustrations with an inability to interpret physical contacts appropriately and consistently.

Standing alone none of these factors provide a satisfactory explanation for the behavior of the teachers. Together they form a matrix which has the potential to isolate some of the causal factors.

Others aspects require further clarification and explanation. It would be simplistic at this point to ascribe, for example, sexual preferences to relationships with fathers, although Gebhard et al (1965) note that offenders against male children: "had the worst paternal relationship of any tripartite group" (p. 273).

For the offenders against male children the conflict between classroom successes and social difficulties in peer intimacies outside the classroom provide some support for the evolution of the offenders emotional congruence with children in the classroom. There is also some evidence to suggest that the personality structures of the offenders also had a role to play. There is no evidence to suggest that these conclusions should be limited only to offenders against male children.

Chapter 7

Offenders Against Female Children

7.1 Offender profiles.

In the primary data there are only three cases involving offenders against female children. In the secondary data there are five cases involving female children. This latter conclusion concerning the status of these victims as "children" is tenuous since all of the victims in the secondary data are at the developmental stage where adult sexual characteristics begin to emerge. Since a significant number of these offences appear in the data their elimination could distort the shape of the problem.

None of the offenders against female children have documented histories of recidivism or previous convictions for similar offences. There were no admitted pedophiles in the group, although one offender Regina vs D. (1971) recognized the problem and was voluntarily undergoing therapy when his offences were

committed. Two of these offenders were only convicted of sexually molesting their students outside of school, Regina vs G. (1986) and Regina vs S. (1984). In both cases these offenders lured children in their classes to their homes where they were sexually assaulted. Since, in both cases, the actual offences were preceded by affectionate behaviors in the classroom these cases have not been excluded.

All of the offenders against female children in the primary data were multiple offenders in the sense that they were involved with more than one child. Regina vs M. (1986) and Regina vs H-S (1986) in the secondary data also molested multiple children. As previously noted (see Chapter 5) the plea bargaining process makes it difficult to ascertain the exact number of children involved or the exact number of offences committed. The duration of the teachers sexual involvement with the children is also problematic for related reasons (see Chapter 5).

There are a number of significant differences evident in the data for this group of offenders as compared to the offenders against male children. Table 7 illustrates some of these differences.

Table 7

Offenders Against Female Children

Case	Age of teacher	Marital status	Age of victims	Admitted offences	Convict-ions
			Primary		
R. vs T. (84)	45	S	8-10	4	4
R. vs K. (82)	46	M	10-11	0	2
R. vs D. (71)	28	M	7-8	2	2
			Secondary		
R. vs G. (86)	46	M	12	0	1 ***
R. vs S. (84)	30	M	12	0	2 ***
R. vs W. (77)	-	M	13	0	1
R. vs H-S(86)	47	S	13-18	0	2 **
R. vs M. (86)	47	M	13-15	0	0 **

Note.

Unless otherwise noted offenders were involved in molesting children in the classroom.

* Teacher only molested non-students outside of school.

** Children molested inside and outside of school.

*** Students only molested outside of school.

( ) Indicates the year of the judgment.

The methodology used to assemble this data and the limited size of the sample stringently confine the validity of conclusions. Since these are, however, the only documented cases available they provide at least a credible starting point for critical examination of the behaviors.

7.2 Congruence: children or adults?

One of the most striking differences evident in the documentation on the offenders against female children relates to the nature of the sexual acts perpetrated on the victims. In the group of offenders against male children five out of seven were involved in simple touching and fondling. The two exceptions are Regina vs C. (1986) and Regina vs D. (1984), both involving acts of oral sex.

In the group of offenders against female children the majority committed more intrusive offences. Only Regina vs K. (1982) and Regina vs W. (1977) involved simple touching-fondling affectionate behaviors. Other cases in the sample range from touching, fondling and exposure (Regina vs I., 1984) to touching, exposure and fondling leading to ejaculation (Regina vs D., 1971). All of the other offences involved oral sex,

intercourse or attempted intercourse. There is no documented evidence of explicit threats or violence in any of the cases.

The behaviors of this latter group of offenders are considered more intrusive in the sense that the acts involved more intimate relations with students. Many of these acts were preliminaries to attempted coitus and in two cases, Regina vs H-S. (1986) and Regina vs M. (1986), did lead to actual coitus with the students. This contrasts sharply with the pattern of behavior for the majority of the offenders against male children whose primary activities involved touching and fondling with no overt pattern of escalation into more intimate behaviors.

One potential explanation for this pattern lies in the age of the victims. With the exception of Regina vs W. (1977) all of the cases of fondling and exposure (female children) involve victims under twelve years old: prior to the definitive emergence of visible secondary sexual characteristics. All of the more serious offences involved students over twelve years of age. Two out of three offences against children thirteen years and older involved sexual intercourse. Since female children at these ages may have visible

sexual characteristics were they perceived by the adult offenders as children, adolescents or emerging adults?

This question becomes particularly perplexing given our social tendency to sexualize adolescence in the media. Yet the sexuality of adolescence still retains an element of ambiguity. For example, colloquial labels for adolescent females such as "jail bait" simultaneously recognize but deny their sexuality. To also suggest that adolescent females are in the process of exploring their sexuality is not to suggest culpability for the offences but only to suggest that teachers may have responded to them as adults.

Given the pattern of offences above and below pubescence the data suggest two phenomena in need of explanation: first, the molesting of prepubescent children, and second, adults responding to pubescent children as adults.

But are there two problems here, or is it two different aspects of the same problem? Swanson (1968), in a similar study using court records supplemented by offender interviews, concluded that rather than there being pedophilic and normal sexual orientations the propensity for sexual involvement with children was

part of a continuum: those who preferred children as sexual partners at one end, those whose choice was situational or coincidental at the other.

Groth (1978) makes a similar distinction between "fixated" and regressed offenders. The fixated offender is said to avoid adult sexual contacts and is interested only in children. The regressed offender is similar to Swanson's (1968) situational offender in that the choice of children is linked to some paricular crisis or emotional need.

But the term situational can have other meaning equally relevant to the etiology of sexual molestation. The implication of Groth's (1978) model is that for the situational offender emotional congruence with the child is essentially catalyzed by the personality structure of the offender. But situational can also mean an interpersonal relationship in which expectations are misconstrued or responded to inappropriately. Such a situation may well arise with an adult male working in proximity with attractive pubescent females in the classroom.

When teachers become sexually involved with pubescent students explanations of emotional congruence have to go beyond the traditional research biases

which tend to "isolate the phenomena defined as deviant from its context" (Mohr, 1981, p. 42). Accounting for why many other teachers do not become involved with pubescent students inevitably must include the emotional characteristics of identified offenders, but not to the exclusion of other contextual considerations. In the case of teachers this contextual component must include the structure of the relationships developed with students in the classroom. Considering this interpersonal dimension may be the only way to fully examine the cause and effect interplay provoking the offences.

Since all the offenders convicted of responding to pubescent females are in the secondary data sufficient documentation is not available to address these questions adequately. Given the serious consequences of the behaviors documented in the data they are clearly questions in need of serious explanation.

7.3 Prepubescent congruence.

As previously noted all of the offenders against female children in the primary data committed offences against children under the age of twelve years: prepubescent children. The allegations in all three

cases involve fondling-touching behaviors. The behaviors in two of the three cases Regina vs D. (1971) and Regina vs I. (1984), however, were substantially different than the touching-fondling behaviors of the offenders against male children in the primary data. In both of these cases the fondling evolved into more explicitly erotic behaviors: The children were encouraged by the offenders to engage in reciprocal genital manipulation which, in the case of Regina vs D. (1971), resulted in ejaculation.

Psychiatric reports on these two offenders (Regina vs D., 1971 and Regina vs I., 1984) bear some similarities to those of the offenders against male children. Both groups appear to have had poor relationships with parents. The presentence report in Regina vs I. (1984) documents a fragmented childhood history of being shunted around from parents to step-parents from age two until puberty.

The offender in the case of Regina vs I., (1984) describes his mother as "affectionate but [she] had difficulty showing this" (Psychiatric Report, p.2). He describes her as the disciplinarian in the family who used to strap him. His father is described as "a demanding but affectionate person who was somewhat

degrading in his attitude to women" (Regina vs I., 1984, Psychiatric Report, p. 2). In a similar vein to some of the offenders against male children the psychiatrist described the offender as "an individual who grew up in an environment lacking consistency, love and adequate role models. His ability to relate to others was therefore limited" (Regina vs I., 1984, Psychiatric Report, p.5).

Like some of the offenders against male children this offender (Regina vs I., 1984) also demonstrates an inability to form meaningful intimate relationships with peers. He lists extensive relationships with adult females, but relates "not knowing what he wanted out of the relationships and that the sexual part was not good" (Regina vs I., 1984, Psychiatric Report, p.4).

Many of the same factors documented earlier with respect to the offenders against male children may be helpful here. Like many of these offenders the accused in Regina vs I. (1984) had "interpersonal relationships which tend to be superficial and when he comes close to an adult woman he feels pressured and is unable to make the committment" (Psychiatric Report, p.7). In the same way it appears that the offender probably

perceived a lack of committment from his mother which may account for the low self esteem evident throughout the report.

The most logical explanation for the behavior once again may be found in the differential between the positive reinforcement and respect the offenders received in the classroom, and their fears of rejection outside the classroom. Like the offenders against prepubescent males the offenders against prepubescent females were all very successful in the classroom, but saw themselves as failures among peers. Inside the classroom they were in control of the children, outside the classroom they felt incapable of exercising control with peers. The classroom may have provided an opportunity to compensate for their fears of intimacy within a climate of control unavailable outside the classroom.

Their ability to exercise control over students may have allowed them to effectively avoid the psychological obstacles to intimacy inhibiting the offenders among peers. The most accessible, and least intimidating target for such intimacies, would be those over whom control is successfully exercised, the students.

The case of Regina vs D. (1971) reveals a related theme. The differences here being that the offender was rejected by his father and had an overly protective relationship with his mother (Regina vs D., 1971, Psychiatric Report, p.1). The outcome of this upbringing appears to have similar consequences to those in Regina vs I. (1984). The examining psychiatrist documents in his report that the offender in Regina vs D., (1971) appeared to suffer from "low self esteem and a deep rooted sense of inadequacy and inferiority among peers" (Psychiatric Report, p. 1). The report goes on to describe the behavior of the accused as a "sign of regression, a withdrawal from an adult life that has been too difficult" (Regina vs D., 1971, Psychiatric Report, p. 2).

The question of why this offender acted on his impulses, when others with similar emotional needs and inadequacies do not, is left to speculation in the report. It does not seem unreasonable to suggest that here also the classroom experiences of control and respect had a role to play. They effectively may have eroded the perceived inadequacies and fears erected as barriers to peer intimacies outside the classroom. These success experiences may ultimately have

facilitated a perceived relationship with the children that provided a non-threatening opportunity to meet other more intimate needs. In this sense the classroom role may have catlayzed the offenders emotional congruence with the children.

The third case in the offenders against female pubescent children group, Regina vs K. (1984), is enigmatic. The allegation was basicly that the accused "touched the genital area of two of his female Grade 4 pupils while they were sitting on his knee or being lifted by him during recess" (Regina vs K., 1984, Psychiatric Report, p. 1). The offender admitted touching the children but denied any sexual intent. There is no evidence in any of the documentation of any developmental problems or sexual difficulties. The offender was a well adjusted 46 year old, with a successful marriage and two young children. He was also charged with common assault for putting his arm around the shoulder and waist of a child who was sitting on his knee.

When the allegations were first made the accused remarked to a colleague: "I guess I didn't draw the line between father and teacher. So I rubbed legs. So I touched bottoms but I was lifting her [the student]

up to see out of the window" (Regina vs K., 1984, Reasons for Judgment, p.18). One interesting insight not noted by the trial court is that many would consider it inappropriate for fathers or teachers to touch the upper legs and bottoms of ten and and eleven year old female children.

Apart from this somewhat distorted perception of appropriate touching behaviors the motivation for the offence remains unexplained. There was no evidence of perceptions of inadequacy, low self esteem or problems with peer intimacies. The psychiatric report (Regina vs K., 1984) implies that the teacher was innocent. The trial judge disagreed.

Data for the offenders against female children reveal two distinct groups of offenders. Offenders against pubescent females and offenders against prepubescent females. There is insufficient data to support valid inferences about the former group, but the characteristics of the behavior suggests that the offenders emotional congruence with these children may have been based on a perception of them as adults. For the offenders against prepubescent children many of the same characteristics identified in the discussion on offenders against male children seem evident. It

appears likely that for offenders against prepubescent children the gender of the child may play a less significant role in explaining the behavior.

Chapter 8

Discussion

8.1 Motive and opportunity.

The data available here is inadequate to support definitive conclusions, neverthless, there is some support for the proposition that at least for the offenders against prepubescent children their relationships in the classroom played a significant role in their behavior. These relationships appear to be more than sexual.

For the offenders against male and female prepubescent children the data suggests some common problems that may have contributed to the behavior. In the primary data six out of seven of these offenders have perceptions of personal inadequacy and varying degrees of social isolation among peers. The same six offenders all focussed on success in the classroom to the exclusion of almost all other outside activities.

Without exception, all of these offenders were considered to be highly successful teachers.

All six also had similar problems outside the classroom: generally superficial relationships with peers and difficulties initiating and maintaining appropriate intimate relationships. For these teachers successes in the classroom compensated for their difficulties outside the classroom. The only nonproblematic relationships they had were often with their students.

This does not necessarily mean that their classroom role provided simply an opportunity to molest the students. The teachers were indeed alone in the classroom with the children and had ample opportunity to have their way. But opportunity alone is only sufficient if it is assumed that child molestors are perverts who only need the right opportunity to do "their thing" with the kids. This view of the problem assumes that the offenders were motivated to molest children prior to their classroom involvement. There is no evidence in the primary data to support this premise. Only one case in the secondary data, Regina vs N. (1986), supports this argument.

If this assumption is rejected then the question of the underlying motive and meaning of the behavior must be addressed. And the data suggests that the classroom dynamics had a strong part to play. In the classroom, away from their fears of peers, these offenders were respected and successful in the teaching role. Without exception, outside the classroom the opposite was true.

The positive experiences inside the classroom would contrast starkly with the social life these men had outside the classroom. Acceptance, respect and self esteem are essential precursors to exchanges of intimacy. These teachers had it all inside, but not outside, the classroom. Howells (1979b) found that "pedophiles tend to view adults in terms of dominance and submissiveness and find adults overbearing, whereas children are viewed as non-threatening and easy to relate to because of their submissive status" (p. 74).

This conclusion has some relevance to the findings here. In the case of these six teachers their ability to control the classroom and their difficulties exercising control outside the classroom may have resulted in the classroom and the children being seen as a less threatening forum for the initiation of

intimate relationships. For many of these offenders the classroom may have been the only non-threatening forum.

In conclusion it would seem that opportunity did have a role to play here. The opportunity, however, was not simply an opportunity to molest children, rather it was an opportunity to compensate inside the classroom for psycho-social difficulties experienced outside the classroom. The nature of the difficulties these six teachers had were perhaps focussed by their classroom successes into a forum completely inappropriate given their needs.

8.2 The meaning of circumstance.

The original question posed at the beginning of the paper (Chapter 2, p.8) implies that teachers convicted of sexually abusing their students may somehow be "victims of circumstances" (Chapter 2, p.8). To argue that these teachers are victims of circumstances is impossible without clarifying what qualifies as a significant circumstance and what does not. Contrary to the latent implication that these circumstantial factors may be found in the classroom the evidence strongly suggests that at least for the prepubescent offenders the chain of causation can be traced to

factors outside the classroom. The circumstances surrounding the offences did occur in the classroom, but the circumstances predisposing the offenders to commit the offences appear to predate their involvement in the teaching role.

They are in one sense then victims of circumstance and in another they are not. To suggest that the teacher is victimized by the circumstances of the classroom is to confuse cause and effect: to confuse a catalyst (the classroom dynamics) with an ingredient (the personality of the teacher). The limited evidence available suggests that the circumstances facilitating these teachers emotional congruence with the students can be traced to personality characteristics the teacher brought to the classroom role. The chain of causation starts outside the classroom not inside.

Low self esteem and long term problems with peer intimacies appear to be potential precursors of the problem. The role of these factors is a close fit with traditional theoretical explanations of adult sexual interest in children. In this sense these teachers are no different than others labelled as child molestors. The classroom is indeed an important catalyst in providing an opportunity for compensation, but this

catalytic role belongs at the end of the chain of causation, not at the beginning. These teachers then are victims of circumstance but not necessarily classroom circumstances.

8.3 Conclusion.

It would appear that if there are significant differences between teachers who molest children in schools and other child molestors the differences are only cosmetically significant. The teachers may not fit stereotypical images of child molestors, but their behavior and their motivation for the behavior may not be significantly different. While the sources of data are elusive and the resources located cannot provide evidence to support definitive conclusions, they have yielded sufficient factual material to begin theoretical exploration of the problem.

Understanding sexual involvement with children in terms of emotional needs may contrast sharply with public images of child molestors. This approach, however, may be a more comfortable framework when explaining the sexual misbehaviors of colleagues from among our own ranks. When such cultural biases are efficiently stripped away for intimate examination of

the problem it seems unlikely that significant differences between teachers and other offenders will emerge. Teachers do, as described, have unique opportunites in the classroom to compensate for the effects of their problems. But no evidence has emerged during this study to suggest that the problems and the underlying needs are unique to members of the teaching profession.

"Child molesting" is an amorphous label that conceals a wide spectrum of discrete behaviors. As noted in discussing the offenders against pubescent female children the question of when is a child not a child is difficult, perplexing, but extremely relevant to understanding the meaning of the behavior for the offender. The scarcity of factual material on this group of offenders precludes the formulation of even the most hypothetical explanations for the behavior. For similar reasons the two cases of non-discriminating offenders have not been discussed.

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Appendix A

Ethical Issues

A.1 Credibility vs confidentiality.

The primary concern of the study is the shape and nature of the problem rather than the actual identities of the perpetrators, victims, or schools. All of the events documented are indeed a part of the public record and freely available to all who know where to look. Neverthless no useful purpose seems to be served by exposing aspects of the problem not essential to the credibility of the paper. The occurrences documented in the study were traumatic and embarassing for all individuals, children and schools involved. Without exception all the cases studied have been disposed of by the courts and all the teachers involved have served, or are currently serving, sentences imposed by the courts.

While the credibility of the study is important, it must of necessity, coexist with the equally important

goal of respecting the rights of those involved not to suffer ongoing and continual humiliation above and beyond the punishments inflicted by the courts. To further publicize the identities of the perpetrators and the victims would only add to the problems caused by the occurrences examined in this study. Such an approach would inevitably, and fatally, compromise the credibility of the paper.

In addressing this issue recourse was made to the manner in which such cases are reported in legal journals. Like this paper, legal journals are written for a professional audience. But if there are ethical standards used in legal journals they seem consistently inconsistent. Some journals use a case citation including only the first letter of an accused name, for example Regina vs D. or Regina vs A. Other journals in reporting the same case will use the entire name of the accused. There are indeed strong arguments for publishing such offenders names in all law reports (and elsewhere) as is done for all other cases reported. These arguments are all directed at public policy issues beyond the parameters of this paper.

There are important differences between the objectives of law journals and the objectives of this

paper. Law journals are written as a litigative resource for lawyers. The law of precedent demands that judgments be reported without deletions or censorship. All facts are considered important. The issue of what is, or is not, significant in any reported judgment is left to the reader.

There are thus two reasons why the legal approach to ethical issues is unsuitable for the purposes of this paper. Primarily the legal approach is inconsistent and seems to have no well defined schemata vis a vis protection of individuals or victims. Some publish names others do not. The standard seems to be: set your own standard.

The second grounds for rejection is found in the differences between the objectives of this paper and the overall litigative objectives of legal publications. The legal emphasis is on documenting all of the facts, but the emphasis required for this paper does not require such a standard. The issue is not the degree of editorial stringency required, but rather the nature of the facts necessary to credibly support the objectives of the paper.

At the other extreme is the recent work of Ross & Marlowe (1985). This work discusses numerous cases of

sexual abuse in schools in the U. S. and Canada. Since none of the cases or incidents discussed are either footnoted or referenced in the work the contents are reduced to not much more than interesting anecdotal materials. There are no means of verification and the work has no credibility or utility as an initial resource for further research. The authors' rationale for the style cites the requirement of "anonymity" (Ross & Marlowe, p. vii, 1985) and the protection of those involved in the incidents depicted.

The position taken in this paper is that the offenders and their victims can be reasonably protected without the elimination of resources essential to credibility and continuity in research of the problem. It is of crucial importance that the resources used be accessible to those who wish to either verify the data or look at aspects of the cases not documented in the paper. Many of the court records for cases cited run to hundreds of pages. In pruning the data for this paper facets of the cases, that may be of use to other researchers, have been excluded. A majority of the cases cited in the study are also not reported in the law journals and can only be found with a great deal of time and effort.

If the ethical standard for the study is defined by the parameters of an approach emphasizing the least possible harm to all involved the dilemma can be clarified. The issue then becomes a question of what evidence can be adduced to give credibility and continuity to the paper and the supporting data, without encroaching on the issues of confidentiality vis-a-vis the identity of the actors.

A.2 Modifications to A.P.A. citations.

To facilitate the accessibility of data and at the same time to protect the identities of the participants the following modifications to A.P.A. footnoting specifications will be implemented throughout the paper.

Unreported judgments: In citing unreported judgments of the Ontario Court of Appeal the name of the offender will be represented by only the first letter of the surname. This will be followed by the file number in the particular court office and the year the appeal was filed.

Court documents: Records at the Ontario Court of Appeal can run to several hundred pages per case and are often not indexed. Where reference is made to a

particular document in a case the case name will be cited at the beginning of the citation and the name of the specific document and the page number will be provided at the end of the quotation.

Unreported judgments from out of the Province: These citations will identify the offender only by the first initial of the surname. The reference will specify geographic location, the trial court, the name of the judge and the date of the judgment (where available).

Reported judgments: In citing all reported judgments the name of the offender will be represented only by the first letter of the surname. This will be followed by the full citation as per the A.P.A. format.

Newspaper reports: In all newspaper articles cited the name of the offender will be represented by only the first letter of the surname followed by the full title of the newspaper article as per the APA format.

Medical, psychiatric and presentence reports: All such reports culled from public court records will not include the identities of the authors or their professional affiliations. The subject of the report

(the patient) will only be identified by the first letter of the surname.

Ethical issues of medical confidentiality would normally arise in using psychiatric reports. It should be noted, however, that these reports were prepared for use in court and the authors were subject to cross examination on their contents in open court. The subjects were all advised of this possibility when they were examined. In the case of Regina vs K. (1982), for example, the psychiatrist made the following notation on his report: "I pointed out to him [the offender] that I considered my report confidential, but if in fact it was submitted to the court or used in the process of his trial, it would not be priviledged." (Psychiatric Report, p. 1).